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DIRECTIVE NUMBER 155

BAIL BONDS

TO : ALL BAILBOND AGENTS

It has come to my attention that some bail bond agents or agencies may be conducting business in violation of certain provisions of the Louisiana Insurance Code or other applicable Louisiana law.

Specifically some bail bond agents or agencies may be conducting business using unapproved or unregistered trade names, may be writing bail bonds for less than the statutorily mandated premium rate of 12% of the face amount of the bail bond and may be advertising the use of a lesser rate than mandated.

It is the purpose of this Directive to advise all members of the bail bond industry in Louisiana of certain provisions of law concerning solicitation, negotiation, and effectuation of bail bonds in this state.

LICENSURE

In accordance with LRS 22:1113 A (1) no person or firm shall act as or hold itself out to be an insurance agent, broker or solicitor unless licensed by the Department of Insurance.

In addition, LRS 22:1118 C (2) requires that prior to the use of or changes to any trade name or names, an agent shall provide written notification to the commissioner, on a form prescribed by the commissioner to use or change any trade name or names. A letter of registration must accompany application to the commissioner for use of a trade name from the Secretary of State. The use of a non-approved trade name by any bail bond agent or agency shall subject the licensee to fines and penalties in accordance with the statute.

BAIL BOND PREMIUM

Pursuant to LRS 22:1404.3, the premium rate for all commercial surety underwriters writing criminal bail bonds in the state of Louisiana shall be 12% of the face amount of the bond, or sixty dollars, whichever is greater.

"Premium" is defined as all sums charged, received or deposited as consideration for the purchase or continuation of insurance.

Acceptance of any amount of premium less than 12% of the face amount of the bail bond or acceptance of a reduced commission or any other reduction in the mandated 12% premium is considered a rebate in violation of LRS 22:1214 (8) and each violation shall subject the violator to the penalty provisions contained in LRS 22:1217, Unfair Trade Practices Act.

ADVERTISING

LRS 22:1214 maintains the following acts are declared to be unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

- (2) False information and advertising generally. Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, or misleading.

An advertisement containing the use of an unlicensed or unregistered trade name or which represents bail bond premiums are available at a rate of less than 12% of the face amount of the bond are considered to be misrepresentations in violation of the above statute and may subject the violator to the penalty provisions of LRS 22:1217, Unfair Practices Act. Further advertisements should not use phrases such as "lowest cost bail bonds" or "cut rate bail bonds" as these and phrases of similar import would lead an average person to believe that a bail bond is available at a rate of less than 12% and would be construed as false or misleading advertising and also may subject the violator to the penalty provisions of LRS 22:1217, Unfair Practices Act.

Please be guided accordingly.

By:



J. ROBERT WOOLEY
ACTING COMMISSIONER OF INSURANCE